

Serial No.: 10/594,454

Attorney Docket No.: LNK-021

After-Final Response of September 29, 2009

REMARKS

Herewith, claims 7 and 25 are canceled and claims 4, 6, 26, and 27 are amended. Accordingly, pursuant to the entry of the instant amendment, claims 4-6, 8-17 and 26-27 are presently pending.

At the outset, Applicants wish to thank Examiner Kam for discussing Applicants' proposed response of September 22nd and her tentative agreement that the amendments presented herewith overcome the grounds of rejection of record and place the instant application in condition for allowance. In particular, in an effort to expedite prosecution and simply the issues at hand, Applicants have herewith canceled claims 7 and 25 and introduced the now-canceled subject matter into independent 4. In particular, the process steps of claim 4 have been amended to specify the use of wash and elution buffers containing "100 – 300 mM phosphate salt" and "200 – 500 mM phosphate salt", respectively. The amendment to claim 4 necessitated certain minor revisions to claims 6, 26, and 27 to preserve consistency and antecedent basis.

Support for the amendments presented herewith is found in the specification as originally filed, for example in the originally filed claims. Additional support is found at:

- Page 5, lines 10-15: "In wash step (b), the hydroxylapatite matrix is washed with a buffer having a medium salt concentration . . . usually 100 to 300 mM, preferably 200 to 300 mM, more preferably 200 to 270 mM"; and
- Page 5, lines 15-18: "In step (c), VWF having a high specific VWF activity can be eluted with a buffer having a relatively high salt concentration . . . usually contains 200 to 500 mM, preferably 250 to 500 mM, more preferably 300 to 400 mM".

Thus, Applicants respectfully submit that no new matter has been added. However, Applicants reiterate that the instant amendments are presented solely for the purpose of expediting prosecution and should not be construed as Applicants' agreement with or

Serial No.: 10/594,454

Attorney Docket No.: LNK-021

After-Final Response of September 29, 2009

acquiescence to the grounds of rejection previously set forth. Applicants further reserve the right to present claims analogous to those previously presented in one or more continuing applications.

Applicants respectfully submit that the instant response renders moot the outstanding claim rejections and places the instant application in condition for allowance. Further to this position, Applicants submit the following remarks:

Rejections under 35 U.S.C. § 112, First Paragraph

Claims 25-27 stand finally rejected under 35 U.S.C. § 112, first paragraph, for failing to comply with the written description requirement. According to the Examiner, the genus of “salts” encompassed by the claims is not adequately supported by representative species.

At the outset, Applicants respectfully submit that the cancelation of claim 25 renders moot the rejection thereof. As for pending claims 26 and 27, while Applicants respectfully disagree with the Examiner’s characterization of the genus of salts as unduly variable, they have nevertheless amended claim 4 (and thus claims 5, 6, 8-17, 26, and 27) to require the use of phosphate salts. Applicants respectfully submit that the disclosed examples of sodium phosphate and potassium phosphate are sufficiently representative of the genus of “phosphate salts” so as to convey to one skilled in the art that the inventors had possession of the claimed invention at the time the application was filed. As such, Applicants respectfully request reconsideration and withdrawal of the outstanding rejections of claims 26 and 27 in view of the amendments and remarks herein.

Rejections under 35 U.S.C. § 112, First Paragraph

Claims 4-6 and 8-17 stand finally rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. According to the Examiner, claim 4 fails to adequately set forth the conditions under which the VWF having the low specific VWF activity would be washed out and the VWF having the high specific VWF would be eluted from a hydroxylapatite column.

At the outset, Applicants respectfully submit that this rejection is not timely, since claims of analogous scope have been pending on the record unrejected. Applicants further traverse the

Serial No.: 10/594,454

Attorney Docket No.: LNK-021

After-Final Response of September 29, 2009

Examiner's suggestion of indefiniteness and submit that breadth of a claim is not to be equated with indefiniteness. Rather, the test for indefiniteness is whether one of ordinary skill in the art would understand the bounds or the claim, when read in light of the specification and in the context of the prior art. In this case, we submit that the scope of the subject matter embraced by the claims is clear and unambiguous and thus the claims comply with section 112, second paragraph.

Nevertheless, in an effort to expedite prosecution, Applicants have amended claim 4 (and thus claims 5, 6, 8-17, 26, and 27) to include the specific parameters set forth in claim 7, which was omitted from rejection and is now canceled as redundant. In particular, claim 4 now specifies the conditions under which the VWF having the noted low specific VWF activity would be washed out (i.e., "using a wash buffer containing 100 – 300 mM phosphate salt") and under which the VWF having the noted high specific VWF activity would be eluted (i.e., "using an elution buffer containing 200 – 500 mM phosphate salt"). Thus, Applicants respectfully submit that the claims as amended herewith meet the threshold requirements for clarity and precision set forth in 35 U.S.C. § 112, second paragraph. Accordingly, Applicants respectfully request reconsideration and withdrawal of the outstanding rejections of claims 4-6 and 8-17 in view of the amendments and remarks herein.

Obviousness Type Double Patenting

Claims 4-17 and 25-27 stand finally, yet provisionally, rejected on the grounds of obviousness-type double patenting for being obvious over claims 1-20 of co-pending application Serial No. 10/594,455. Applicants respectfully disagree with the Examiner's characterization of the overlapping subject matter and her conclusion of obviousness. Nevertheless, in an effort to expedite prosecution, Applicants submit herewith a terminal disclaimer over co-pending Application No. 10/594,455, thereby rendering moot the outstanding double patenting rejection.

Serial No.: 10/594,454
Attorney Docket No.: LNK-021
After-Final Response of September 29, 2009

CONCLUSION

In view of the foregoing, Applicants respectfully submit that claims 4-6, 8-17, 26, and 27 are in condition for allowance and respectfully petition for the early issuance of a Notice of Allowance confirming such.

The Office Action of **September 10, 2009** set a three-month shortened statutory period for response, response falling due **December 10, 2009**. Accordingly, Applicants submit that this response is timely and no additional fees, apart from those included herewith, are required. However, in the event that further fees are required to enter the instant response and/or maintain the pendency of this application, the Commissioner is authorized to charge such fees to our Deposit Account No. 50-2101.

If the Examiner has any questions or concerns regarding this communication, she is invited to contact the undersigned.

Respectfully submitted,

Date: September 29, 2009

By: /chalin a. smith/

Smith Patent Consulting, LLC
3307 Duke Street
Alexandria, VA 22314
Telephone: (703) 549-7691
Facsimile: (703) 549-7692

Name: Chalin A. Smith
Title: Attorney for Applicant
Registration No. 41,569

CUSTOMER NUMBER 31,496